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INDIAN LAWS REGARDING: **NECROPHILIA**

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ABSTRACT:

This article includes the behavior of a person who has a sexual desire or attraction towards a dead body commits a heinous and immoral act for a prolonged period due to his psychological disorder is called Necrophilia. Their reasons and actions affect society in all dimensions. Every country has a different perspective on this topic. As it is a disorder some exceptions are given to the accused in a few cases. Most of the constitutions try to understand and analysis the behaviors of an accused for better delivery of justice.

KEY WORDS: Necrophilia, psychological behavior, unnatural sex, corpus, gravediggers, insanity defense.

INTRODUCTION:

Indian constitution is a detailed description which include most of the offences and punishments for them. There is a scope for new offences in this modern world. One among them is a necrophilia disorder. It is a psychological disorder who is having sexual desires towards dead bodies.ⁱ Fortunately, this is not common because of the unnatural and brutal act of a human towards a dead body. Recently these types of cases are coming into the limelight. The concept of it is not new but, it is getting recognized recently. The word necrophilia word derived from the Greek, it means friendship or love with dead bodies. Other names of it are necrophilism, necrolagnia, necrocoitus, necrochlesis and thanatophilia. It also consists of sadism (who enjoy other's sadness), cannibalism (a person who eats flesh of a human being), vampirism (a person who drinks the blood of a living human).ⁱⁱ The nature of this act is familiar in the past and now, but the difference is we recognized, understood and trying to conclude. It is mostly seen in males compared to females. An extremely

weird sexual desire of a person can be alienated from normal people. As we know sexual acts against one's will amount to rape, but here as having sex with dead body amounts to rape or not? Few countries agree upon it and award punishments. Indian laws don't have clear laws against these acts.

BEHAVIOUR OF NECROPHILIA: The conduct of a person who is suffering from necrophilia disorder can be classified into many stages (from lower to higher). Accordingly, it helps us understand at what stage a person is. The first stage most of the necrophilia persons do not have intercourse with the corpus. Next, at the 4th stage they just get satisfied by touching the corpus. The highest stages of it are: **HOMICIDAL NECROPHILIACS** it means a person who commit murder to have intercourse with the victim, can also be called as necro sadists. **EXCLUSIVE NECROPHILIACS:** a person who have extreme interest in sex with a dead body and cannot with living partner.ⁱⁱⁱ **REGULAR NECROPHILIA:** these people have intercourse with dead bodies in regular basis. Few of them are graveyard diggers, they have sex with the bodies which have had buried long back.^{iv}

REASONS: to choose corpus:

- Most of the people have dysfunctional families, where most of the children choose their own path to live.
- They fear rejection by the people.
- They want a partner who does not reject their sexual fantasies.
- The dead bodies do not resist or reject.
- Other few wants are closely related to their loved one, so they wanted reunion with loved one who is dead.
- They want the people to keep with them.

HISTORICAL PERSPECTIVE: In some parts of the Egypt pursuit necrophilia and it is not an offence. Even during wars and battles between Japan and China, soldiers forced to have sex with dead bodies. It was common for them to practice it.

PEOPLE ACCUSED OF NECROPHILIA: Most of the time this condition is seen in males compared to females. Considering few reports 2 out of 10 are found as females. Offenders take advantage Most of the criminal's target children who had a fight with parent and came out the

home, alone girls (who are venerable and need support) this is taken advantage by offenders. Rossman and Resnick (1989) are classified the necrophilia and their motives.

JEFFREY DEHMER (1960- 1994): He was an American offender accused of serial killing, sex offender, cannibalism and preserving body parts of the victim. During the trial he was diagnosed with many psychological disorders. Even though he was suffering from psychological disorders which generally considered as insane but surprisingly he was sane while answering questions during the trial. He was punished for life imprisonment.^v

TED BUNDY: He is having very disturbing criminal history. His target was young women including schoolgirls. He was accused of abducting, kidnap, murder, rape, sex with heads of the victims (a type of necrophilia). He was sentenced to death.^{vi}

SURINDRA KOLI AND MONINDER SINGH PANDHER (INDIA): They are from Noida, India. This incident came into the limelight in 2006, when most of them were girls and went missing in the village. They used to target and kidnap the children who had a fight with family members. The strange behavior was conducted on those victims like assaulting, abusing, sex with bodies, boiling their body parts, cannibalism, throwing the rest of parts. There is no proper count of victims.

KAREN GREENLEE: One of the rarest cases where a female was recognized necrophilia but was not punished for this act as it not an illegal act in California. She had very minimal punishment for it. She admitted having sex with dead bodies openly in the interview. She was only accused of a hearse and disturbing the peace of the dead.

LAWS REGARDING NECROPHILIA IN SEVERAL PARTS OF THE WORLD:

HAWAII: The legislation of Hawaii government did not expressly mention about necrophilia but mentioned about misconduct with the corpus in 711-1108.^{vii}

UNITED STATES: As we know it is a combination of 50 states, so every state has its own perspective of necrophilia. Accordingly, punishments were also awarded. In few states felony, is 1 to 10 years if a person commits sex with a dead human dead body.

UNITED KINGDOM: It is having the oldest constitution in the world, but nothing mentioned about necrophilia until 2003 sexual offence act. Under this act necrophilia (sexual intercourse with a dead body of human) is illegal. Adding to it, the naked body of a dead person should not be exposed to the public if so, it is considered a public nuisance.

GERMAN: The German criminal code under the section 358 necrophilia is criminalized in German and sections 166–168 related to religion and philosophy of life and Section 168 deals with disturbing the Peace of the Dead. If anyone violates it, then they can be sentenced for not more than 3 years or fine.

GEORGIA: The laws in respect of necrophilia is criminalized in Georgia. Under the section of 16-6-7 if a person commits sexual acts with the dead human body with any sex part of the body. The accused can be punished for not less than one year and not more than 10 years.

SOUTH AFRICA: It is well known for its dark era and tough to develop, but in considering the concepts of the necrophilia they have laws against necrophilia. It was clearly mentioned in 2nd chapter, section 14 of the criminal law amendment 2007 prohibits sexual acts against corpus.

PAKISTAN: According to recent reports these incidents have been drastically increased. Pakistani laws also closely mentioned about necrophilia in a way Trespass in burial place, etc., under the section 297. In that, they stated the remains of death or offering any indignity to the human dead body led to the punishment for up to one year or fine or both.^{viii}

INDIA: Our country with the world's lengthiest detailed constitution to help our vast diverse population. We have many acts to protect the women from sexual harassment, assault, molest or any other violation against her will, but there is not clear mention regarding necrophilia act in the Indian constitution. We have borrowed laws from many other countries like UK, the US, Canada, South Africa, France., etc., most of them consider necrophilia as an offence and give punishment. But in our India, this is not even considered as an offence. Additionally, it is accounted under an insanity act. Most of the persons who committed a necrophilia act counted as suffering from psychological disorder and take defense of insanity, treatment for it. In the Noida case 2006 court stated that they are behaving normally towards adults except children or children who are in adolescent age. Necrophilia can be understood under the section 377 deals with "unnatural sex",

but it did not mention expressly or implied about corpus.^{ix}

Many countries have different perspectives in this regard. And most of them quoted about disturbing the peace of dead body but here we must understand that dead body cannot complain against the violent actions admitted on them. Government should provide security where the dignity of a dead body must be respected. We must evaluate the emotions of relatives or love one's feelings when a stranger does such immoral act on dead human.

RECENT INCIDENCE IN PAKISTAN: In view of few reports of Pakistan, states there is a clear increase in sexual acts on human dead bodies. The horrible and immoral situation was recorded in 2011 where a person Muhammad Rizwan exhume a 48-year female corpus from the graveyard and had sex with it in Karachi. He was arrested for it but given a very minimal punishment.

RANAGARAJ V. STATE OF KARNATAKA (2023): This case is a significant case to understand importance punishment for committing sexual act with female dead body. It was filed in 2015 where Rangaraju was the accused of murdering 21 years female and then raped her. The learned judge of the Karnataka high court given the punishment considering the section of 302 which deals with punishment of murder. And said, the offence of having intercourse with corpus will not attract the sections of 376(rape) because rape can only be done on living human and that person should resist the accused and corpus cannot. Under IPC section of 304 punishment the ranagarja was punished for life imprisonment. Section 297, which deals with trespassing to burial places...etc., highlighted whoever offers indignity to the corpus those action can be considered as an offence but in the case of ranagaraja case his action was considered as murder did not amount to rape.

We must think whether article 21(Right to life) right to die with dignity can be extended or not. Our Indian rituals, traditional indicate us to respect the dead body but this behavior is truly against Indian cultural. To get control over these issues we must frame new laws in this regard.^x

PRECAUTIONS THAT THE STATE HAVE TO TAKEN: After this incident, the government passed few guidelines to protect or give security for dead bodies which are kept in mortuary rooms (in hospitals), cadavers (medical colleges) and buried in graveyards. The government ordered CCTV footage in mortuary rooms to arrange.

THE CONDITION OF NECORPHILIA IS MISUSED: As we know India do not have clear and expressed laws against necrophilia because it is a psychological disorder. To frame the laws the legislative should think in all the criminal perspective to get a greater output. Now- a -days, necrophilia can take advantage of its conditions and show sadism on dead. In other situations, a person may intentionally kill and commit sexual offences against them. This is visible in the case of Rangaraja Vs State of Karnataka. In our Indian constitution punishment for an unsound mind comparatively lesser than a sound mind.

THE IMPORTANCE OF MAKING LAWS: Having detailed sections mentioned in a constitution for disorders and other immoral acts committed would help the judiciary in dealing with cases. Even in the case of the rangaraju case it was tried to amicus the court in few cases. There is a necessity for the Indian constitution to frame the laws. Some other countries recognized necrophilia acts as immoral in their constitution like UK, south Africa, New Zealand, Georgia, etc. And there should be an increase in scope of understanding and interpretating sections like:

Section-376(rape): Sexual act without her consent; against her will; her consent was given but through apprehension; she believed that she legally married to him, but he knows that he wasn't; when she was unsound or unable to understand nature or consequence; consent of the girl under the age of sixteen (amendment the age from 16 to 14 and 15 to 13). Yes, as we know dead bodies does not come under human beings so, rape will not be applicable. But the sexual act against a corpus which can't give its consent will make us understand the state of mind of that person and we must consider the act and intention is clear through the action.

Sention-377(unnatural offence): It deals with carnal intercourse against nature with any man, women or animal.

Section-297 (trespass of burial places) of IPC: Explains about the offence whoever enters the places like holy places, sepulture and causing disturbance or insult to funnel rituals of any person or causing indignity to the corpus. According to new laws Bhartiya Nyay Sanhita 2023, there is no mention about necrophilia conditions or any other immoral or medical disorder act. But trespassing to burial was mentioned under chapter 16, title: of offences relating to religion under section 299. It deals with trespassing to burial, which was mentioned under IPC section 297, with no change in it.

In Bhartiya Nyaya Sanhita 2023^{xi} there is no mention of unnatural offences. Section 377(an

unnatural offence) not only covers human beings, but animals as well. In *Navtej Singh v. Union of India*, 2018^{xii} partially decriminalized unnatural offences in the context of sexual conduct between the same sex. But 'unnatural offences' can have wider ambit to interpretate beyond same sex. Necrophilia and other sexual activities which are against the nature can be considered under this section.

CONCLUSION: The Judiciary should consider the crimes which are committed by the psychological disordered. The Indian constitution always tries to maintain the public order in the society. Law is a mixture of many fields including medical, legal, social, economic perspectives. It needs to analysis all the dimensions of them. Necrophilia should also consider as offence in India to prevent the crimes regarding it and misusing them to escape law and order. Crimes are taking place in new forms every time. Accordingly, the constitution should be upgraded. The constitution should notice and introduce a new section as soon as possible. When it comes to uncommon cases and rare in this nature. Even people with lack of knowledge and awareness make these cases unreported. Even if they get reported then with insufficient laws, the judiciary cannot tackle them. The only solution for this is to adopt to present scenarios and awareness in public.

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^{viii}. Pakistan Penal Code (Act XLV of 1860) Act XLV of 1860, [Constitution of Pakistan](#) | [Legislation](#) | [www.pakistani.org](#)

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^x. SCC Blog Bringing you the Best Analytical Legal News...

<https://www.sconline.com/blog/post/2023/06/01/karnataka-high-court-recommends-central-government-make-law-on-necrophilia-legal-news/>

^{xi} Bharatiya Nyaya Sanhita 2023.

^{xii} *Navtej Singh Johar vs Union of India* Ministry of Law And ... on 6 September 2018.